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PATENT COOPERATION TREATY (PCT)

ADMINISTRATIVE INSTRUCTIONS
UNDER THE PATENT COOPERATION TREATY:

PROPOSED MODIFICATIONS RELATING TO THE
ELECTRONIC FILING, PROCESSING, STORAGE AND
RECORDS MANAGEMENT OF INTERNATIONAL APPLICATIONS

(ANNEX F, INTRODUCTION)

*prepared by the International Bureau for consideration at a
PCT informal consultation meeting on electronic filing,
Geneva, July 11 to 14, 2000*

INTRODUCTION

1. At its twenty-eighth (16th extraordinary) session, held in Geneva in March 2000, the PCT Union Assembly considered the implementation of electronic filing and processing of international applications. The Assembly's discussions were based on document PCT/A/28/3, which included proposed modifications of the Administrative Instructions under the PCT,¹ and the comments of delegations and user representatives on that document which were reproduced in documents PCT/A/28/3 Add.2 to Add.5. The discussions also took into account the documents reproduced in document PCT/A/28/3 Add.1 relating to the development of the necessary technical standard to enable implementation of electronic filing and processing of international applications. The Assembly agreed that proposed new Part 7 of the Administrative Instructions under the PCT (Instructions Relating to Electronic Filing, Processing, Storage and Records Management of International Applications) and draft Annex F of the Administrative Instructions (Standard for Electronic Filing, Processing, Storage and Records Management of International Applications) needed extensive redrafting, and that further consultations on the redrafted versions were necessary (see the Assembly's report, document PCT/A/28/5, paragraph 24).²

2. This and related documents³ contain a redraft of the necessary implementing provisions of the Administrative instructions for the purposes of continuing the consultation under Rule 89.2(b) which was begun in conjunction with the twenty-eighth session of the Assembly. The documents are as follows:

PCT/AI/1 Add.2 Prov., containing redrafted Part 7;

PCT/AI/1 Add.3 Prov., containing redrafted Annex F, Introduction;

¹ References in this document to "Articles," "Rules" and "Sections" are, respectively, to those of the Patent Cooperation Treaty (PCT), of the Regulations under the PCT ("the Regulations") and of the Administrative Instructions under the PCT ("the Administrative Instructions"), or to such provisions as proposed to be amended or added, as the case may be. The current texts are available on WIPO's Internet site at <http://www.wipo.int/eng/pct/texts/index.htm> References to "national law," "national applications," "national Offices," etc., include reference to regional law, regional applications, regional Offices, etc.

² The report and other documents for the Assembly's session are available on WIPO's Internet site at http://www.wipo.int/eng/document/govbody/wo_pct/index_28.htm.

³ This and other documents for consideration by the PCT informal consultation meeting on electronic filing are available on WIPO's Internet site at http://www.wipo.int/eng/meetings/2000/pct_ef/index.htm

PCT/AI/1 Add.4 Prov., containing redrafted Annex F, Appendix I (Technical Standard for the On-Line Exchange of Industrial Property Documents in a PKI Environment);

PCT/AI/1 Add.5 Prov., containing redrafted Annex F, Appendix II (XML DTDs for Industrial Property Document Exchange);

PCT/AI/1 Add.6 Prov., containing redrafted Annex F, Appendix III (Electronic Filing Using Physical Media).

[Annex F, Introduction, follows]

PROPOSED MODIFICATIONS OF THE
ADMINISTRATIVE INSTRUCTIONS UNDER THE PCT

ANNEX F
STANDARD FOR ELECTRONIC FILING, PROCESSING, STORAGE
AND RECORDS MANAGEMENT OF INTERNATIONAL APPLICATIONS

Introduction

1. This Standard has been elaborated so as to provide standardization in relation to the electronic filing, processing, storage, and records management of international applications under the Patent Cooperation Treaty (PCT), and in particular, under Rule 89*bis* of the PCT Regulations and pursuant to Part 7 of the Administrative Instructions under the PCT. The Standard is intended to allow applicants to file an international application in electronic form which is acceptable to all receiving Offices, International Searching Authorities and International Preliminary Examining Authorities for the purposes of the international phase, and to all designated and elected Offices for the purposes of the national phase. It is intended to comprise a set of requirements and to include options for applicants and receiving Offices concerning the submission of international applications (and related documents) in electronic form under the PCT based on the implementations set out in the technical appendices.
2. It contains the basic technical principles to be adopted for electronic filing and incorporates Technical Appendices for the details of specific implementations. The current version references Appendix I (Technical Standard for the On-Line Exchange of Industrial Property Documents in a PKI Environment),⁴ Appendix II (XML DTDs for Industrial Property Document Exchange)⁵ and Appendix III (Electronic Filing Using Physical Media).⁶
3. In accordance with the legal provisions contained in Part 7 of the Administrative Instructions under the PCT, receiving Offices are given the liberty to elect (1) the type of electronic signature which they will accept (of the two types indicated in Appendix 1); and (2) the type of digital certificate that they will accept for the purposes of the filing of PCT applications (of the two types indicated in Appendix 1). The receiving Offices are required under the Administrative Instructions to communicate these choices to the International Bureau which will publish them for the benefit of applicants. Designated Offices will be required likewise to notify the International Bureau of the type of electronic signatures and the classes of digital certificates of those set out in Annex F which are acceptable to the designated Office.
4. This standard applies to international applications filed under the PCT in electronic form, as well as national patent applications by virtue of the Patent Law Treaty.

⁴ See document PCT/AI/1 Add.4 Prov.

⁵ See document PCT/AI/1 Add.5 Prov.

⁶ See document PCT/AI/1 Add.6 Prov.

Definitions

5. For the purposes of Annex F, the expression:

(a) “basic electronic signature” means an electronic signature [which indicates the signer’s approval of the content of the document] [which indicates the human intention to perform a certain action] and which can be:

- (i) a particular string of text entered by a user;
- (ii) a facsimile image of the hand-written signature;
- (iii) a “click-wrap” signature.

(b) “enhanced electronic signature” means an electronic signature in respect of which it can be shown, through the use of a security procedure, that the signature:

- (i) is unique to the signature holder within the context in which it is used;
- (ii) was created and attached to, or logically associated with the electronic document by the signature holder or using a means under the sole control of the signature holder and not by any other person;
- (iii) was created and is linked to the electronic document to which it relates in a manner which provides reliable assurance as to the integrity of the document;

One implementation of an enhanced electronic signature is a “digital signature” which is produced using a Public Key Infrastructure (PKI) generated certificate and corresponding private key.

(c) “recognized certificate” means a digital certificate which has been issued by a trusted third party which identifies the applicant to a high degree of certainty;

(d) “ad-hoc certificate” means a digital certificate which has been issued to the applicant, for example as part of the registration of the on-line filing client or obtained from a Certification Authority, which identifies the applicant to a low degree of certainty.

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